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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,306	03/21/2001	Osamu Kasono	040894-5644	1542

9629            7590            03/12/2003

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[REDACTED]  
EXAMINER

CHU, KIM KWOK

ART UNIT	PAPER NUMBER
2653	

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/813,306	KASONO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Kim-Kwok CHU	2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 2 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 2 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 10/8/02 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.<br> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____.                                       |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

*The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).*

2. Claims 1 and 2 are rejected under 35 U.S.C. § 102(e) as being anticipated by Van Rosmalen et al. (U.S. Patent 6, 130,418).

Rosmalen teaches an optical head apparatus having all of the steps recited in claims 1 and 2. For example, Rosmalen teaches the following:

(a) as in claim 1, the optical head is in an optical path of a light beam between an objective lens 15 and an information recording medium 1 (Fig. 1);

(b) as in claim 1, an immersion lens 17 to increase a numerical aperture in the light beam (Fig. 1; column 5, lines 1-3);

(c) as in claim 1, a movement unit 55a-55c for moving the immersion lens 17 in the direction to separate therefrom from the

information recording medium 1 corresponding to a control signal (Fig. 1; column 7, lines 13-17, 47-60);

(d) as in claim 1, a detector 65 for detecting a foreign material fitted onto the surface of the information recording medium 1 (Fig. 1; detector 65 measures the recording medium's surface in order to maintain a proper height; a foreign material such as dust molecules are always exists in the air gap under detection by detector 65; column 2, lines 27-34, 38-48);

(e) as in claim 1, a controller 83 for outputting the control signal to separate the immersion lens 17 to the higher position than the height of the foreign material by the movement unit (Fig. 1; column 2, lines 27-34, 38-48);

(f) as in claim 2, the movement unit includes a magnetic field generator 55a-55c for generating the magnetic field of the intensity corresponding to the control signal (Fig. 1);

(g) as in claim 2, a magnet 53 integrally provided with the immersion lens 17 (Fig. 1; magnet 53 is joined with immersion lens 17); and

(h) as in claim 2, said controller 83 outputs the control signal to generate the magnetic force to separate the immersion lens 17 to the higher position than the height of the foreign material to the magnetic field generator corresponding to the detection result of said detector (Fig. 1; column 2, lines, 38-48).

**Prior Art**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kasono et al. (6,194,129) is pertinent because Kasono teaches a solid immersion lens having a proper height to prevent dust.

4. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C.  
20231 Or faxed to:

(703) 872-9314 (for formal communications intended for entry. Or:

(703) 746-6909, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim CHU whose telephone number is (703) 305-3032 between 9:30 am to 6:00 pm, Monday to Friday.

Kim-Kwok CHU  
Examiner AU2653  
March 3, 2003

fc  
3/3/03

(703) 305-3032

*William Korzuch*  
WILLIAM KORZUCH  
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